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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,716	04/05/2004	Isidoro Natalio Markus		1177

7590 02/22/2005
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EXAMINER

WHITE, RODNEY BARNETT

ART UNIT PAPER NUMBER

3636

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/816,716

Applicant(s)

MARKUS, ISIDORO NATALIO

Examiner

Rodney B. White

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 8, "the virtual axis" lacks antecedent basis. On line 9, the phrase "'stops of said seat thereto said frames" is unclear and confusing language. Should "thereto" be - - relative to - - or - - with respect to - - instead? On line "therein" have been - - in - - or - - within - - instead? Those 2 lines do not read clearly as written.

In claim 2, line 2, "the rear edge of said seat bottom" lacks antecedent basis.

Claims 3-4 do not end with a period. All claims must end with a period.

In claim 5, line 8, "the virtual axis" lacks antecedent basis. On line 9, the phrase "'stops of said seat thereto said frames" is unclear and confusing language. Should "thereto" be - - relative to - - or - - with respect to - - instead? On line "therein" have been - - in - - or - - within - - instead? Those 2 lines do not read clearly as written.

In claim 6, line 7, "the slots lower paths" lacks antecedent basis. Also, "slots" probably should have been - - slot's - -. While such contractions are not recommended in technical writings, it probably should be re-worded to read - - lower

Art Unit: 3636

paths of the slots - -. On line 7, "the slots paths" again lacks antecedent basis. And should be corrected in the same manner as recommended above. On line 9, "moveable" should probably be - - moveably - -. On line 11, "the slots paths" again lacks antecedent basis. And should be corrected in the same manner as recommended above. On line 11, "the slots ends" again lacks antecedent basis. And should be corrected in the same manner as recommended above to read - - ends of the slots - -. On line 12, "the other end" lacks antecedent basis. The number ends of the "elastic elements" has not been determined previously in the claim. When Applicant refers to "one end" and then later "the other end" it implies that the "elastic members" have only two ends and that is not clear from reading the claims and since a structure could have more than two ends. On line 13, "its upright position stops" is inferentially claimed, as if they were defined in the claim previously when they have not been at all. On line 15, "the axis of rotation" lacks antecedent basis. On line 15, "moveable" should probably be - - moveably - -. On line 15, should "thereunto" be - - to - - or - - with respect to - - instead? On line 16, "the cover plates openings" not only lacks antecedent basis, but "plates" should probably be - - plates' - -. But, like above, this inconsistency should be corrected as above. On line 16, "the slots ends" again lacks antecedent basis. Again, "Slots" should be - - slots' - - but the phrase should be re-worded to read - - ends of the slots - -. On line 16, "runners" is again incorrect and should be - - rotation of the runners - -.

In claim 7, line 7, "said circular segments" lacks antecedent basis because on line 6, Applicant claims "circular segment means" On line 12, "the other end" lacks

Art Unit: 3636

antecedent basis. The number ends of the “elastic elements” has not been determined previously in the claim. When Applicant refers to “one end” and then later “the other end” it implies that the “elastic members” have only two ends and that is not clear from reading the claims and since a structure could have more than two ends. On line 11, “the flanges” lacks antecedent basis. On line 13, “its upright position stops” is inferentially claimed, as if they were defined in the claim previously when they have not been at all. On line 15, “moveable” should probably be - - moveably - - . On line 16, should “thereunto” be - - to - - or - - with respect to - - instead? On line 16, “the cover plates openings” not only lacks antecedent basis, but “plates” should probably be - - plates’ - -. But, like above, this inconsistency should be corrected as above. On line 16, “the slots ends” again lacks antecedent basis. Again, “Slots” should be - - slots’ - - but the phrase should be re-worded to read - - ends of the slots - -. On line 16, “runners” is again incorrect and should be - - rotation of the runners - -.

In claim 8, line 1, “the virtual transverse axis of rotation” lacks antecedent basis. On line 2, “the rear edge of said seat bottom” lacks antecedent basis.

The aforementioned problems render the claims vague and indefinite. Clarification and/or correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Sondergeld (U.S. Patent No. 4,861,106).

Sondergeld teaches a reclining chair comprising a structure having two supporting side frames 19,20 or 35, each having at least one substantially horizontal

Art Unit: 3636

member and substantially vertical members, said frames disposed in a spaced apart relationship by cross rails 34, 34a; a seat disposed within said frames further comprising a bottom board and a back board connected together and means for supporting said seat including (1) a plurality of concentric circular ring sector shaped slots 21,22 or 40,41 or 49a, 49b or 111,112 located on said horizontal members further defining the virtual axis of rotation and the stops of said seat thereto said side frames and (2) a plurality of plastic runners 23 or 38a,38b or 52a,52b or 109,110 attached to said bottom board and sliding therein said slots, whereby the virtual transverse axis of rotation is horizontally located four to eight inches forward of the rear edge of said seat bottom, whereby the circular ring sector slots are placed into inserts (See Figures 1-26 and specification)

Claims 1- 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Serber (U.S. Patent No. 5,244,252).

Serber teaches a reclining chair comprising a structure having two supporting side frames 43, each having at least one substantially horizontal member and substantially vertical members, said frames disposed in a spaced apart relationship by cross rails ; a seat disposed within said frames further comprising a bottom board and a back board connected together and means for supporting said seat including (1) a plurality of concentric circular ring sector shaped slots 42 and 66 located on said horizontal members further defining the virtual axis of rotation and the stops of said seat thereto said side frames and (2) a plurality of plastic runners attached to said bottom

Art Unit: 3636

board and sliding therein said slots, whereby the virtual transverse axis of rotation is horizontally located four to eight inches forward of the rear edge of said seat bottom, whereby the runners are wheels 41 and 96 whereby the circular ring sector slots are placed into inserts (See Figures 1-6 and specification).

Claims 1- 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Serber (U.S. Patent No. 5,558,399).

Serber teaches a reclining chair comprising a structure having two supporting side frames 43, each having at least one substantially horizontal member and substantially vertical members, said frames disposed in a spaced apart relationship by cross rails ; a seat disposed within said frames further comprising a bottom board and a back board connected together and means for supporting said seat including (1) a plurality of concentric circular ring sector shaped slots 42 and 66 located on said horizontal members further defining the virtual axis of rotation and the stops of said seat thereto said side frames and (2) a plurality of plastic runners attached to said bottom board and sliding therein said slots, whereby the virtual transverse axis of rotation is horizontally located four to eight inches forward of the rear edge of said seat bottom, whereby the runners are wheels 41 and 96 whereby the circular ring sector slots are placed into inserts (See Figures 1-7 and 9 and specification).

Claims 1- 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Serber (U.S. Patent No. 5,735,574).

Serber teaches a reclining chair comprising a structure having two supporting side frames 43, each having at least one substantially horizontal member and substantially vertical members, said frames disposed in a spaced apart relationship by cross rails ; a seat disposed within said frames further comprising a bottom board and a back board connected together and means for supporting said seat including (1) a plurality of concentric circular ring sector shaped slots 42 and 66 located on said horizontal members further defining the virtual axis of rotation and the stops of said seat thereto said side frames and (2) a plurality of plastic runners attached to said bottom board and sliding therein said slots, whereby the virtual transverse axis of rotation is horizontally located four to eight inches forward of the rear edge of said seat bottom, whereby the runners are wheels 41 and 96 whereby the circular ring sector slots are placed into inserts (See Figures 1-7 and 9 and specification).

Claims 1- 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Veneruso (U.S. Patent No. 6,641,214 B2).

Veneruso teaches a reclining chair comprising a structure having two supporting side frames, each having at least one substantially horizontal member and substantially vertical members, said frames disposed in a spaced apart relationship by cross rails ; a seat disposed within said frames further comprising a bottom board and a back board connected together and means for supporting said seat including (1) a plurality of concentric circular ring sector shaped slots 7 located on said horizontal members further defining the virtual axis of rotation and the stops of said seat thereto said side

Art Unit: 3636

frames and (2) a plurality of plastic runners attached to said bottom board and sliding therein said slots, whereby the virtual transverse axis of rotation is horizontally located four to eight inches forward of the rear edge of said seat bottom, whereby the runners are wheels 12,13 whereby the circular ring sector slots are placed into inserts (See Figures 1-2 and specification).

Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Pipon et al (U.S. Patent No. 4,842,232).

Pipon et al teach reclining chair comprising a structure having two supporting side frames, each having at least one substantially horizontal member and substantially vertical members, said frames disposed in a spaced apart relationship by cross rails, a seat disposed within said frames further comprising a bottom board and a back board connected together; and means for supporting said seat including (1) a plurality of concentric circular ring sector shaped slots 1b located on said bottom board further defining the virtual axis of rotation and the stops of said seat thereto said side frames and (2) a plurality of plastic runners attached to said horizontal members and sliding therein said slots.

Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Carroll (U.S. Patent No. 6,106,065).

Carroll teach reclining chair comprising a structure having two supporting side frames, each having at least one substantially horizontal member and substantially

Art Unit: 3636

vertical members, said frames disposed in a spaced apart relationship by cross rails, a seat disposed within said frames further comprising a bottom board and a back board connected together; and means for supporting said seat including (1) a plurality of concentric circular ring sector shaped slots 54 located on said bottom board further defining the virtual axis of rotation and the stops of said seat thereto said side frames and (2) a plurality of plastic runners 48a,48b attached to said horizontal members and sliding therein said slots.

Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Maxwell (U.S. Patent No. 4,957,302).

Carroll teach reclining chair comprising a structure having two supporting side frames, each having at least one substantially horizontal member and substantially vertical members, said frames disposed in a spaced apart relationship by cross rails, a seat disposed within said frames further comprising a bottom board and a back board connected together; and means for supporting said seat including (1) a plurality of concentric circular ring sector shaped slots 82,84 located on said bottom board further defining the virtual axis of rotation and the stops of said seat thereto said side frames and (2) a plurality of plastic runners 58,60 attached to said horizontal members and sliding therein said slots.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Markus teaches a chair similar in structure and concept to the

Art Unit: 3636

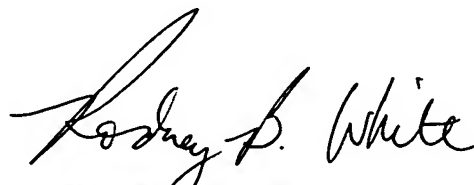
present invention. Rogers and Maddox teach the use of slots in a reclining chair but does not teach the cross rails.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (703) 308-2276. (This number will be (571) 272-6863 once the move to the new U.S. Patent And Trademark Office facility in Alexandria, Virginia, is complete.)

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. (This number will be (571) 272-6856 once the move to the new U.S. Patent And Trademark Office facility in Alexandria, Virginia, is complete.) The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rodney B. White,
Patent Examiner
Art Unit 3636
February 17, 2005



RODNEY B. WHITE
PRIMARY EXAMINER